Friday, June 27, 2008

CONTENTS
CONGRESSIONAL SCHEDULE NEW
BUDGET & APPROPRIATIONS
Congress Clears FY08 Supplemental with Science Funding NEW
Partisan Dispute Delays House Appropriations; Senate to Continue Process in July UPDATE
Senate Appropriations Committee Approves Labor-HHS-Education Bill
Student Aid Alliance Endorses House Subcommittee’s Student Aid Funding Levels
House Appropriations Committee Approves FY09 Energy Funding Bill
OTHER CONGRESSIONAL ISSUES
Congress Approves Latest One-Month HEA Extension UPDATED
House Overwhelmingly Approves ADA Restoration Act
Veterans Affairs Committees Approve Veterans Education Tuition Support Bill UPDATED
EXECUTIVE BRANCH
Commerce Department Extends Nomination Deadline for Emerging Technology and Research Advisory Committee
OTHER
CNSR Will Host Congressional Briefing on Defense Basic Research July 10

CONGRESSIONAL SCHEDULE NEW

The House began its July 4 recess today. It will reconvene for legislative business on Tuesday, July 8, but no agenda has been announced.

The Senate was in session today but held no roll call votes. It will reconvene in pro forma session on Monday, June 30, to prevent the President from making recess appointments during the July 4 recess. The Senate will reconvene for legislative business on Monday, July 7, when a cloture vote is expected on housing reform legislation (H.R. 3221). The following day, July 8, the Senate is expected to consider the revision of the Foreign Intelligence Surveillance Act (H.R. 6304).

BUDGET & APPROPRIATIONS
CONGRESS CLEARS FY08 SUPPLEMENTAL WITH SCIENCE FUNDING NEW

The Senate on June 26 approved the FY08 supplemental appropriations bill (H.R. 2642) for the wars in Iraq and Afghanistan, sending the measure to the President, who has indicated he will sign it into law. The measure was approved by the House on June 19. Within the bill’s $21 billion in domestic discretionary spending is $400 million for the National Institutes of Health
(NIH), the National Science Foundation (NSF), the Department of Energy (DOE) Office of Science, and NASA.

After months of wrangling over the bill, House leaders negotiated a bipartisan compromise with the White House that eliminated restrictions on the war and boosted domestic spending. (An explanatory statement about the non-military discretionary amendment is available on the House Rules Committee Web site.) The House last week and the Senate this week approved the compromise. House and Senate Democratic leaders have said they might pursue another supplemental appropriations bill later this year.

The $400 million for science agencies is divided as follows: $150 million for NIH and $62.5 million each for NSF, the DOE Office of Science, and NASA. The remaining $62.5 million will fund DOE environmental management activities.

For NSF, the funds are broken down as follows:

- $22.5 million for Research and Related Activities, of which $5 million is set aside for a number of programs authorized by the America COMPETES Act; and
- $40 million for Education and Human Resources, divided among the Robert Noyce Scholarship program, Graduate Research Fellowships, Graduate Teaching Fellowships, and the Federal Scholarship for Service.

The NASA funds are directed to Science, Aeronautics, and Exploration.

Regarding the DOE Office of Science, the explanatory statement of the House amendment (page 38 of the document) directs that the $62.5 million be spent as follows:

The Department of Energy is instructed to utilize this funding to eliminate all furloughs and reductions in force which are a direct result of budgetary constraints. Workforce reductions which are a result of completed work or realignment of mission should proceed as planned. This funding is intended to maintain technical expertise and capability at the Office of Science, and may be used for National Laboratory Research and Development including research related to new neutrino initiatives. Funding for research efforts shall not be allocated until the Office of Science has fully funded all personnel requirements.

The science funding is provided on an emergency basis. It is therefore considered a one-time appropriation that does not increase the spending baseline for future years.

An earlier Senate version of the supplemental bill included a total of $1.2 billion for NIH, NSF, DOE, and NASA. However, the White House said that the President would veto that bill, and House leaders decided to craft a bill with less domestic spending that could gain congressional approval and that the President would be willing to sign.

H.R. 2642 also contains increased veterans’ education benefits, an extension of unemployment benefits, disaster funding for the recent tornadoes and flooding in the Midwest, and funding for a number of other priorities. The defense component of the bill was cut by $3.6 billion to help pay for the non-defense elements of the measure.

The bill was structured in two parts to permit Members to vote separately on the war funding and the domestic spending in the legislation. The House approved the war funding portion on a vote of 268 to 155, while the domestic spending package was adopted on a 416 to 12 vote. The Senate
voted 92 to 6 to approve the domestic package but did not need to vote on the war funding because it had done so earlier.

PARTISAN DISPUTE DELAYS HOUSE APPROPRIATIONS; SENATE TO CONTINUE PROCESS IN JULY \UPDATE

While the Senate Appropriations Committee is moving forward with consideration of its FY09 appropriations bills, a contentious session of the House Appropriations Committee on June 26 may have delayed House action indefinitely.

The House panel was scheduled to consider two FY09 appropriations bills, Labor-HHS-Education and Agriculture. But Committee Republicans sought to bring up the Interior-Environment funding bill in order to force votes on three amendments to expand domestic oil drilling. Following a series of tense procedural actions, Committee Democrats adjourned the markup by a roll call vote.

Committee Chairman David Obey (D-WI) refused to commit to further markups or to take any of the FY09 funding bills to the House floor, saying that the appropriations process might already be over for the year. CQToday suggests that “tempers may cool over next week’s recess, and the committee could return to considering its bills next month.” But House Defense Appropriations Subcommittee Chairman John Murtha (D-PA) predicted that all of the FY09 bills might be rolled into a continuing resolution. That would not be a surprise because conventional wisdom has held that congressional Democratic leaders would wait until the November election to decide how to finish the FY09 funding bills, and might postpone final action until early next year with a new President.

Senate Appropriations Committee Chairman Robert C. Byrd (D-WV) said earlier this week that he intended to move all 12 of the FY09 appropriations bills through the committee by the end of July. Senate Majority Whip Richard Durbin (D-IL) told CQToday that only the FY09 Defense appropriations bill would be considered on the Senate floor in July.

SENATE APPROPRIATIONS COMMITTEE APPROVES LABOR-HHS-EDUCATION BILL

The Senate Appropriations Committee on June 26 approved its FY09 Labor-HHS-Education bill, endorsing the funding for research and higher education programs that were approved at the subcommittee level on June 19. The committee-passed bill provides less funding for research and student aid than the measure approved by the House Labor-HHS-Education Subcommittee on June 19.

NIH. The Senate bill would allocate $30.25 billion to NIH, a $1.025 billion increase over FY08. The Committee report says this funding would enable NIH to keep up with biomedical research inflation for the first time in six years and fund an estimated 10,471 new competitive awards. The legislation retains the annual $300 million transfer from NIH to the AIDS Global Fund that has been included in recent years. The bill also:

- Provides $192 million for the Children’s Study, an increase of $81 million over FY08 and the same as the House bill; and
- Allocates $568 million to the Office of the Director for the Common Fund, which is $24 million higher than the level in the House bill.
The Senate bill does not appear to contain the House provision that would make permanent and mandatory the FY08 provision on public access to NIH-funded research.

**Student Aid.** The Senate bill would add $2.7 billion to the Pell Grant program, which would raise the maximum grant by $69. That is less than the $3 billion for the Pell Grant program included in the House bill, which would raise the maximum grant by $169. The Administration has requested an increase of $69.

The maximum grant for FY08 is $4,731, which includes $490 from mandatory funds under the budget reconciliation legislation enacted last year. With the additional discretionary funds under the Senate bill, the maximum Pell Grant would rise to $4,800, of which $4,310 would come from appropriated discretionary funds and $490 would come from mandatory funds. (The House bill would increase the maximum grant to $4,900, with $4,410 from discretionary funds.)

For other student aid programs, the Senate bill would provide an extra $10 million for the TRIO program, an extra $5 million for GEAR UP, and $5.7 million more for the Perkins Loan Cancellations. Funding would be frozen at the FY08 levels for Supplemental Educational Opportunity Grants and Federal Work Study.

A funding chart for FY09 student aid programs is available on the AAU Web site.

**STUDENT AID ALLIANCE ENDORSES HOUSE SUBCOMMITTEE’S STUDENT AID FUNDING LEVELS**

The Student Aid Alliance sent letters to the House Appropriations Committee and the Senate Labor-HHS-Education Appropriations Subcommittee on June 24 urging both panels to support the FY09 funding levels for student aid programs that were approved by the House Labor-HHS-Education Appropriations Subcommittee.

The Alliance letter to House appropriators expresses appreciation for the subcommittee’s proposed $3.1 billion increase for the Pell Grant program, as well as the announced increases for the TRIO and GEAR UP programs. The letter urges continued support for these and other student aid programs as the appropriations process moves forward.

The Alliance letter to the Senate subcommittee asks the panel to match the House funding levels for the Pell Grant, TRIO, and GEAR UP programs. The letter adds that it is important to increase investments in other programs that assist students in achieving their education goals, such as Supplemental Educational Opportunity Grants, Federal Work Study, and Perkins Loans.

**HOUSE APPROPRIATIONS COMMITTEE APPROVES ADDED FUNDING FOR NSF, NASA**

The House Appropriations Committee on June 25 approved its FY09 Commerce-Justice-Science funding bill with the increases for the National Science Foundation (NSF) and NASA that were approved at the subcommittee level on June 12. Few details are yet available about the NASA funding, but specifics have been provided on NSF.

NASA would receive $17.8 billion, which a Committee statement says is $155 million above the President’s FY09 request and $459 million above the FY08 enacted level. A June 12 statement
by Subcommittee Chairman Alan Mollohan (D-WV) says the increase above the President’s request is “spread evenly between science and aeronautics.” The Committee statement says the space agency will be required to report to Congress on the full costs of retiring the Space Shuttle and of conducting two more Shuttle flights to complete work on the International Space Station.

NSF. For NSF, the measure would provide total funding of $6.85 billion, the same as the President’s FY09 request and $789 million above the FY08 enacted level. The bill would redirect about $50 million from the Presidents’ FY09 request for Research and Related Activities to Education and Human Resources.

Specifically, the bill would fund the Research and Related Activities Account at $5.55 billion, which, as noted above, is about $50 million below the President’s request and an increase of $723 million above the FY08 level.

For Education and Human Resources, the measure would provide $840 million, an increase of about $50 million above the President’s request and about $115 million above the FY08 level.

NSF’s Major Research Equipment and Facilities Construction Account would be funded at $147.5 million, equal to the President’s request. The Committee denied the agency’s request to use the account for late-stage design activities.

HOUSE APPROPRIATIONS COMMITTEE APPROVES ENERGY FUNDING BILL

The House Appropriations Committee approved its version of the FY09 Energy and Water Development funding bill on June 25, endorsing the decision by the panel’s subcommittee to add $140 million to the President’s FY09 request for the Department of Energy (DOE) Office of Science. The funding increase would raise the Office of Science budget to $4.9 billion, which the Committee press release says is $844 million above the FY08 enacted level.

The Committee press release mentions the following items within the Office of Science budget:

- **Advanced Energy Research**: $862 million, $26 million above the President’s request and $365 million above 2008, for basic research to address scientific barriers to advancing technologies for energy generation and storage such as fusion energy and advanced batteries. This includes $100 million for approximately two dozen Energy Frontier Research Centers aimed at addressing a broad array of breakthrough energy research avenues, and $15 million to establish an Advanced Research Projects Agency – Energy (ARPA-E).

- **New Tools and Facilities for Energy Research**: $2.3 billion, $85 million above the President’s request and $531 million above 2008, for accelerating the construction and operation of cutting edge scientific facilities and infrastructure critical for enabling the next generation of advanced energy research.

- **Climate Change Research**: $160 million, $5 million above the President’s request and $23 million above 2008, for climate change research including advanced computer modeling.

OTHER CONGRESSIONAL ISSUES
Congress has approved another one-month extension of the Higher Education Act (HEA) (S. 3180) to provide additional time for House and Senate negotiators to complete the conference on the HEA reauthorization bill (H.R. 4137, S. 1642). The extension, which the Senate approved on June 23 and the House on June 25, authorizes HEA programs through July 31.

HOUSE OVERWHELMINGLY APPROVES ADA RESTORATION ACT

The House on June 25 approved the ADA Restoration Act (H.R. 3195) by an overwhelming vote of 402 to 15.

H.R. 3195 seeks to address several Supreme Court decisions over the past decade that have narrowed the definition of “disability.” The bill represents a compromise worked out by committee staff with the employer and disability communities; the higher education community was not consulted until late in the process.

The American Council on Education on June 17 sent a letter to members of the House Education and Labor Committee, the chairman and ranking member of the Judiciary Committee, and Rep. Hoyer detailing the specific concerns of the higher education community. The letter included suggested language for addressing these issues.

The higher education associations are concerned about three issues. One provision would expand the list of individuals who qualify as disabled under the ADA to include those who are substantially limited in the major life activities of “thinking” and “concentrating,” the very abilities students are expected to improve as a result of their education. The second provision would add “learned behavioral or adaptive neurological modifications” to the list of mitigating measures that may not be considered in determining if an individual is disabled under ADA. Thus, students who have used improved study habits and memory aids to succeed in school without accommodations could claim to need accommodation in college because those study improvements could not be considered in determining disability.

The third issue is that the bill does not include report language provided by the higher education community that would reaffirm the principle that higher education institutions need not provide requested accommodations if they would alter elements that the institution believes are fundamental to its academic programs, requirements for degree attainment, or other credentialing requirements.

The higher education community is now focused on expressing its concerns about the bill to the Senate.

VETERANS AFFAIRS COMMITTEES APPROVE VETERANS EDUCATION TUITION SUPPORT BILL

The House and Senate Veterans’ Affairs Committees on June 26 considered the Veterans Education Tuition Support Act (H.R.2910, S.1718), a bill that is aimed at helping members of the Armed Services complete and pay for their college educations despite military deployments. The measure was approved by voice vote in the House Veterans’ Affairs Economic Opportunity Subcommittee; the Senate bill was incorporated into a larger package of veterans’ benefits. The bill is expected to be attached to the FY09 Defense Authorization bill.
The VETS Act of 2007 would amend the Service Members Civil Relief Act to provide members of the Armed Services with tuition reimbursement for programs of education delayed by military service, deferment of student loans and reduced interest rates during periods of military service, and reenrollment with the same educational and academic status.

During markup on June 26, the Senate bill was incorporated into the Veterans’ Benefit Improvement Act of 2008 (S. 3023), which was then approved. (Committee staff indicates that a search on “Thomas” for S. 3023 will pull up another bill and not the text of the omnibus benefits package. The text of the bill approved on June 26 will not show up on Thomas until the bill is reported out of the full committee.)

CQToday reports that the House subcommittee, prior to approving the bill, dropped a section that required loan companies to disregard leave time when calculating the date for loan repayment. The section was redundant to current law, which contains a specific deferment period for service members.

A group of higher education associations, including AAU, submitted comments to the committees on June 25 expressing support for the legislation’s goal of enabling service men and women to further their education. Their letter also pointed out that the new legislation needs to be reconciled with the Higher Education Act and existing regulations, and it stated that association staff would like to help committee staff do so.

EXECUTIVE BRANCH

COMMERCE DEPARTMENT EXTENDS NOMINATION DEADLINE FOR EMERGING TECHNOLOGY AND RESEARCH ADVISORY COMMITTEE

Last month, the Department of Commerce’s Bureau of Industry and Security (BIS) announced that it was seeking candidates for a new advisory panel, the Emerging Technology and Research Advisory Committee, to help the agency “ensure that export controls continue to apply to sensitive items and keep pace with technological and research innovation without stifling U.S. competitiveness.”

The Department on June 26 extended the deadline for submitting nominations for the committee to Tuesday, July 22 (the previous deadline was June 24).

AAU continues to encourage universities to nominate highly qualified candidates for this panel. Participation on the advisory committee is an important opportunity for the academic community to assist the federal government in developing dual-use policies that protect national security and allow the appropriate participation of foreign students and scholars in research activities on university campuses.

Information about the advisory committee and requirements for nominees is available in a May 23 Federal Register notice. The announcement of the nomination extension is in the June 26 Federal Register.
The Coalition for National Security Research (CNSR) will host a Capitol Hill briefing on July 10 to discuss the importance of Defense-supported basic research to the nation’s economic and national security. The luncheon briefing, which is sponsored by the Congressional R&D Caucus, will be held on Thursday, July 10, from 12:00 to 1:30 p.m. in 2325 Rayburn Building. Those interested in attending are asked to contact Rasheedah Smith smithrj@asme.org.

End of document